

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
TOZZI, CAMPANELLA, and CELTNIEKS  
Appellate Military Judges

**UNITED STATES, Appellee**  
**v.**  
**Specialist JOHN A. MASON**  
**United States Army, Appellant**

ARMY 20140028

Headquarters, 1st Cavalry Division  
Rebecca Connally, Military Judge  
Colonel R. Tideman Penland, Staff Judge Advocate (advice)  
Lieutenant Colonel Michael D. Jones, Staff Judge Advocate (recommendation)  
Colonel Alison C. Martin, Staff Judge Advocate (addendum)

For Appellant: Major Aaron R. Inkenbrandt, JA; Captain J. David Hammond, JA (on brief).

For Appellee: Major A.G Courie III, JA (on brief).

16 April 2015

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SUMMARY DISPOSITION  
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TOZZI, Senior Judge:

A military judge sitting as a special court-martial convicted appellant, pursuant to his pleas, of one specification of desertion, in violation of Article 85, Uniform Code of Military Justice, 10 U.S.C. § 885 (2012). The military judge sentenced appellant to a bad-conduct discharge, confinement for five months, and reduction to the grade of E-3. The convening authority approved the sentence as adjudged.

This case is before us for review pursuant to Article 66, UCMJ. Appellant raises four issues pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), one of which merits discussion and relief. Appellant asks this court to provide appropriate relief to remedy the dilatory post-trial processing of his case. We agree that relief is appropriate in this case and grant thirty days confinement credit.

The convening authority took action 384 days after the sentence was adjudged. The record in this case consists of one volume, and the trial transcript is 184 pages. The defense counsel demanded speedy post-trial processing of this case 188 days after sentence was adjudged. The government has provided no explanation in the record of trial or in its post-trial submissions for this delay. Although we find no due process violation in the post-trial processing of appellant's case, we must still review the appropriateness of the sentence in light of the unjustified dilatory post-trial processing. UCMJ art. 66(c); *United States v. Tardif*, 57 M.J. 219, 224 (C.A.A.F. 2002) (“[Pursuant to Article 66(c), UCMJ, service courts are] required to determine what findings and sentence ‘should be approved,’ based on all the facts and circumstances reflected in the record, including the unexplained and unreasonable post-trial delay.”); *see also United States v. Toohey*, 63 M.J. 353, 362-63 (C.A.A.F. 2006); *United States v. Ney*, 68 M.J. 613, 617 (Army Ct. Crim. App. 2010); *United States v. Collazo*, 53 M.J. 721, 727 (Army Ct. Crim. App. 2000). Relief in this case is appropriate because the delay between announcement of sentence and action without any explanation from the staff judge advocate could “adversely affect the public’s perception of the fairness and integrity of military justice system . . . .” *Ney*, 68 M.J. at 617. We provide relief in our decretal paragraph.

### CONCLUSION

Upon consideration of the entire record, the findings of guilty are **AFFIRMED**. Given the dilatory post-trial processing, however, we affirm only so much of the sentence as extends to a bad-conduct discharge, confinement for four months, and reduction to the grade of E-3. All rights, privileges, and property, of which appellant has been deprived by virtue of this decision setting aside a portion of the sentence, are ordered restored.

Judge CAMPANELLA and Judge CELTNIEKS CONCUR.



FOR THE COURT:

A handwritten signature in black ink, which appears to read "Malcolm H. Squires, Jr.".

MALCOLM H. SQUIRES, JR.  
Clerk of Court